



## **SOCIAL SECURITY ADMINISTRATION**

### **20 CFR Part 401**

**[Docket No. SSA-2018-0012]**

**RIN 0960-AI31**

#### **Anti-Fraud System**

**AGENCY:** Social Security Administration.

**ACTION:** Final rule.

**SUMMARY:** We previously published a notice of a modified system of records entitled Anti-Fraud (AF) System. Because this system contains some investigatory material compiled for law enforcement purposes, this rule exempts those records within this system of records from specific provisions of the Privacy Act.

**DATES:** This final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**FOR FURTHER INFORMATION CONTACT:** Melissa Feldhan, Supervisory Government Information Specialist, SSA, Office of Privacy & Disclosure, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, Phone: (410) 966-5855, for information about this rule. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On December 11, 2020, we published a Notice of Proposed Rulemaking (NPRM) in the Federal Register<sup>1</sup> in which we proposed to add the AF System to the list of SSA

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<sup>1</sup> 85 FR 79963.

systems that are exempt from specific provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). We also published a related System of Records Notice on the same day.<sup>2</sup> The AF System is an agency-wide and overarching system that includes the ability to detect, prevent, and mitigate fraud in our programs. The AF System collects and maintains personally identifiable information, which assists us in identifying suspicious or potentially fraudulent activities performed by individuals across all of the agency's programs and service delivery methods. We established the AF System to support our goal of enhancing SSA's fraud prevention and detection activities by protecting the public's data, providing secure online services, and increasing payment accuracy.

This final rule adds the AF System to the list of SSA systems that are exempt from specific provisions of the Privacy Act due to the investigatory nature of information that is maintained in this system.

### **Public Comments and Discussion**

In the NPRM, we provided a 30-day comment period, which ended on January 11, 2021. We received three comments. Of these three comments, we did not post two; one was blank and the other was unrelated to our proposal, fraud, and the AF System. We posted one comment because it related to fraud. The commenter expressed that we should check up on people who are collecting payments for a long period and said that checks must be signed by only the intended recipient. This comment did not address any specific parts of our proposal.

After careful consideration, we are adopting this final rule.

### **Regulatory Procedures**

### **Executive Order 12866, as Supplemented by Executive Order 13563**

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<sup>2</sup> 85 FR 80211.

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563.

We also determined that this final rule meets the plain language requirement of Executive Order 12866.

#### **Executive Order 13132 (Federalism)**

We analyzed this final rule in accordance with the principles and criteria established by Executive Order 13132, and we determined that the final rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. We also determined that this final rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

#### **Executive Order 12372 (Intergovernmental Review)**

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this final rule.

#### **Regulatory Flexibility Act**

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

#### **Paperwork Reduction Act**

This final rule does not create any new or affect any existing collections and, therefore, does not require Office of Management and Budget approval under the Paperwork Reduction Act.

#### **List of Subjects in 20 CFR Part 401**

Administrative practice and procedure, Privacy.

The Acting Commissioner of the Social Security Administration, Kilolo Kijakazi, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the Federal Register.

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Faye I. Lipsky,  
Federal Register Liaison,  
Office of Legislation and Congressional Affairs,  
Social Security Administration.

For the reasons stated in the preamble, we are revising subpart B of part 401 of title 20 of the Code of Federal Regulations as set forth below:

**PART 401—PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND  
INFORMATION**

**Subpart B— [Amended]**

1. The authority citation for subpart B of part 401 continues to read as follows:

**Authority:** Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b-11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

2. In § 401.85, add paragraph (b)(2)(ii)(H) to read as follows.

**§ 401.85 Exempt systems.**

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(b) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(H) Anti-Fraud System, SSA.

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